

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court Northern District of California on the following ☐ Patents or ☐ Trademarks:

DOCKET NO. CV 08-00884 EMC	DATE FILED 2/8/08	U.S. DISTRICT COURT 450 Golden Gate Avenue, P.O. Box 36060, San Francisco, CA 94102
PLAINTIFF ASUSTEK COMPUTER, INC.		DEFENDANT TECHNOLOGY PROPERTIES LIMITED, ET AL.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 see Complaint		
2 see Amended Complaint		
3 5,809,336		
4 5,784,584		
5 5,440,749		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,438,638		
2 6,976,623		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wieking	(BY) DEPUTY CLERK Sheila Rash	DATE February 14, 2008
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

1 have since discussed the possibility of a license, the parties have been unable to reach any
2 agreement to date.

3 16. Based upon the above facts, there is an actual and justiciable controversy
4 within the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202.

5 **FIRST CLAIM**

6 **DECLARATORY JUDGMENTS REGARDING THE '336 PATENT**

7 17. The Plaintiffs hereby restate and reallege the allegations set forth in
8 paragraphs 1 through 16 and incorporate them by reference.

9 18. No valid and enforceable claim of the '336 patent is infringed by the
10 Plaintiffs.

11 **SECOND CLAIM**

12 **DECLARATORY JUDGMENT REGARDING THE '584 PATENT**

13 19. The Plaintiffs hereby restate and reallege the allegations set forth in
14 paragraphs 1 through 16 and incorporate them by reference.

15 20. No valid and enforceable claim of the '584 patent is infringed by the
16 Plaintiffs.

17 **THIRD CLAIM**

18 **DECLARATORY JUDGMENT REGARDING THE '749 PATENT**

19 21. The Plaintiffs hereby restate and reallege the allegations set forth in
20 paragraphs 1 through 16 and incorporate them by reference.

21 22. No valid and enforceable claim of the '749 patent is infringed by the
22 Plaintiffs.

23 **FOURTH CLAIM**

24 **DECLARATORY JUDGMENT REGARDING THE '638 PATENT**

25 23. The Plaintiffs hereby restate and reallege the allegations set forth in
26 paragraphs 1 through 16 and incorporate them by reference.

27 24. No valid and enforceable claim of the '638 patent is infringed by the
28 Plaintiffs.

FIFTH CLAIM**DECLARATORY JUDGMENT REGARDING THE '623 PATENT**

25. The Plaintiffs hereby restate and reallege the allegations set forth in paragraphs 1 through 16 and incorporate them by reference.

26. No valid and enforceable claim of the '623 patent is infringed by the Plaintiffs.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray for judgment as follows:

1. Declaring that no valid and enforceable claim of the patents-in-suit is infringed by the Plaintiffs;

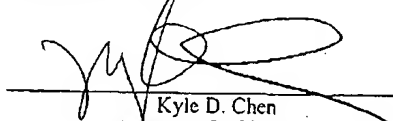
2. Declaring that Defendants and each of their officers, employees, agents, alter egos, attorneys, and any persons in active concert or participation with them be restrained and enjoined from further prosecuting or instituting any action against the Plaintiffs claiming that the patents-in-suit are valid, enforceable, or infringed, or from representing that the products or services of the Plaintiffs infringe the patents-in-suit;

3. A judgment declaring this case exceptional under 35 U.S.C. § 285 and awarding the Plaintiffs their attorneys' fees and costs in connection with this case;

4. Awarding Plaintiffs such other and further relief as the Court deems just and proper.

Dated: February 13, 2008

WILLIAM SLOAN COATS
MARK R. WEINSTEIN
SAM O'ROURKE
KYLE D. CHEN
WHITE & CASE LLP



Kyle D. Chen
Attorneys for Plaintiffs
ASUSTeK Computer, Inc. and
ASUS Computer International

1 WILLIAM SLOAN COATS (SBN 98464)
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E-FILING

ORIGINAL FILED

FEB 8 2008

Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

ADR

Attorneys for Plaintiff

ASUSTEK COMPUTER, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ASUSTEK COMPUTER, INC.,
Plaintiff,

v.

TECHNOLOGY PROPERTIES LIMITED,
PATRIOT SCIENTIFIC CORPORATION
and ALLIACENSE LIMITED,
Defendants.

CASE NO: **C08 00884 EMC**
COMPLAINT FOR DECLARATORY
JUDGMENT

1 Plaintiff ASUSTeK Computer, Inc. ("ASUSTeK" or "Plaintiff"), by and through
2 its attorneys, alleges as follows:

3 1. This is a civil action arising under the Patent Laws of the United States, 35
4 U.S.C. §§101, et seq., seeking a declaratory judgment that no valid and enforceable claim of
5 United States Patent Numbers 5,809,336 ('336 patent); 5,784,584 ('584 patent); 5,440,749 ('749
6 patent); 6,438,638 ('638 patent); and 6,976,623 ('623 patent) (collectively the "patents-in-suit")
7 are infringed by Plaintiff.

8 **PARTIES**

9 2. Plaintiff ASUSTeK is a Taiwan corporation with its principal place of
10 business in Taipei, Taiwan, R.O.C.

11 3. Defendant Technology Properties Ltd. ("TPL") is, on information and
12 belief, a California corporation with its principal place of business in Cupertino, California. On
13 information and belief, TPL is a co-owner of the patents-in-suit.

14 4. Defendant Patriot Scientific Corporation ("Patriot") is, on information and
15 belief, incorporated under the laws of the State of Delaware and maintains its principal place of
16 business in Carlsbad, California. On information and belief, Patriot is a co-owner of the patents-
17 in-suit.

18 5. Defendant Alliacense Ltd. ("Alliacense") is, on information and belief, a
19 California corporation with its principal place of business in Cupertino, California. On
20 information and belief, Alliacense is responsible for negotiating possible licenses to the patents-
21 in-suit with third parties, on behalf of TPL.

22 **JURISDICTION AND VENUE**

23 6. The Plaintiff files this complaint against TPL, Patriot and Alliacense
24 (collectively "Defendants") pursuant to the patent laws of the United States, Title 35 of the
25 United States Code, with a specific remedy sought based upon the laws authorizing actions for
26 declaratory judgment in the federal courts of the United States, 28 U.S.C. §§ 2201 and 2202.

27 7. This Court has subject matter jurisdiction over this action, which arises
28 under the patent laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2201.

1 8. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and (c) and
2 1400(b) because, on information and belief, Defendants are corporations subject to personal
3 jurisdiction in this District and, on information and belief, TPL and Alliacense maintain their
4 principal places of business in this District.

5 **INTRADISTRICT ASSIGNMENT**

6 9. This action is properly filed in the San Jose Division of the Northern
7 District of California because Defendants reside, or do business, in this district.

8 **EXISTENCE OF AN ACTUAL CONTROVERSY**

9 10. There is an actual controversy within the jurisdiction of this Court under 28
10 U.S.C. §§ 2201 and 2202.

11 11. Beginning in or about 2006, and continuing thereafter, Alliacense has
12 demanded that ASUSTeK enter into a royalty-bearing license for certain patents-in-suit.
13 Alliacense has claimed that certain ASUSTeK products infringe one or more claims of certain
14 patents-in-suit, and has told ASUSTeK that if it does not take a license, it may be subject to
15 substantial liabilities.

16 12. Alliacense has to date provided ASUSTeK with multiple claim charts
17 purporting to describe how many of ASUSTeK's products are allegedly covered by one or more
18 claims of the patents-in-suit.

19 13. ASUSTeK has met with Alliacense many times to discuss a possible
20 license. During such meetings, Alliacense has consistently demanded that ASUSTeK take a
21 license or risk possible infringement liability. Although ASUSTeK and Alliacense have
22 repeatedly discussed the possibility of a license, the parties have been unable to reach any
23 agreement to date.

24 14. Based upon the above facts, there is an actual and justiciable controversy
25 within the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202.

26 **FIRST CLAIM**

27 **DECLARATORY JUDGMENTS REGARDING THE '336 PATENT**

28 15. The Plaintiff hereby restates and realleges the allegations set forth in

1 paragraphs 1 through 14 and incorporates them by reference.

2 16. No valid and enforceable claim of the '336 patent is infringed by the
3 Plaintiff.

4 **SECOND CLAIM**

5 **DECLARATORY JUDGMENT REGARDING THE '584 PATENT**

6 17. The Plaintiff hereby restates and realleges the allegations set forth in
7 paragraphs 1 through 14 and incorporates them by reference.

8 18. No valid and enforceable claim of the '584 patent is infringed by the
9 Plaintiff.

10 **THIRD CLAIM**

11 **DECLARATORY JUDGMENT REGARDING THE '749 PATENT**

12 19. The Plaintiff hereby restates and realleges the allegations set forth in
13 paragraphs 1 through 14 and incorporates them by reference.

14 20. No valid and enforceable claim of the '749 patent is infringed by the
15 Plaintiff.

16 **FOURTH CLAIM**

17 **DECLARATORY JUDGMENT REGARDING THE '638 PATENT**

18 21. The Plaintiff hereby restates and realleges the allegations set forth in
19 paragraphs 1 through 14 and incorporates them by reference.

20 22. No valid and enforceable claim of the '638 patent is infringed by the
21 Plaintiff.

22 **FIFTH CLAIM**

23 **DECLARATORY JUDGMENT REGARDING THE '623 PATENT**

24 23. The Plaintiff hereby restates and realleges the allegations set forth in
25 paragraphs 1 through 14 and incorporates them by reference.

26 24. No valid and enforceable claim of the '623 patent is infringed by the
27 Plaintiff.

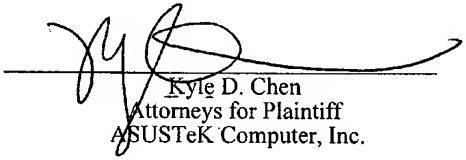
PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays for judgment as follows:

1. Declaring that no valid and enforceable claim of the patents-in-suit is infringed by the Plaintiff;
2. Declaring that Defendants and each of their officers, employees, agents, alter egos, attorneys, and any persons in active concert or participation with them be restrained and enjoined from further prosecuting or instituting any action against the Plaintiff claiming that the patents-in-suit are valid, enforceable, or infringed, or from representing that the products or services of the Plaintiff infringe the patents-in-suit;
3. A judgment declaring this case exceptional under 35 U.S.C. § 285 and awarding the Plaintiff their attorneys' fees and costs in connection with this case;
4. Awarding the Plaintiff such other and further relief as the Court deems just and proper.

Dated: February 8, 2008

WILLIAM SLOAN COATS
MARK R. WEINSTEIN
SAM O'ROURKE
KYLE D. CHEN
WHITE & CASE LLP



Kyle D. Chen
Attorneys for Plaintiff
ASUSTeK Computer, Inc.

**ORIGINAL
FILED**

FEB 13 2008

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

1 WILLIAM SLOAN COATS (SBN 98464)
2 MARK R. WEINSTEIN (SBN 193043)
3 SAM O'ROURKE (SBN 205233)
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Attorneys for Plaintiffs

11 ASUSTEK COMPUTER, INC. and
12 ASUS COMPUTER INTERNATIONAL

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 ASUSTEK COMPUTER, INC. and
17 ASUS COMPUTER INTERNATIONAL

Plaintiffs,

v.

18 TECHNOLOGY PROPERTIES LIMITED,
19 PATRIOT SCIENTIFIC CORPORATION,
20 MCM PORTFOLIO LLC and
21 ALLIACENSE LIMITED,

Defendants.

Case No.: C 08 00884 EMC

**FIRST AMENDED COMPLAINT
FOR DECLARATORY JUDGMENT**

FILE VIA FAX

1 Plaintiffs ASUSTeK Computer, Inc. ("ASUSTeK") and ASUS Computer
2 International ("ACI") (collectively "Plaintiffs"), by and through their attorneys, allege as follows:

3 1. This is a civil action arising under the Patent Laws of the United States, 35
4 U.S.C. §§101, et seq., seeking a declaratory judgment that no valid and enforceable claims of
5 United States Patent Nos. 5,809,336 ("336 patent"); 5,784,584 ("584 patent"); 5,440,749 ("749
6 patent"); 6,438,638 ("638 patent"); and/or 6,976,623 ("623 patent") (collectively the "patents-
7 in-suit") are infringed by Plaintiffs.

8 **PARTIES**

9 2. Plaintiff ASUSTeK is a Taiwan corporation with its principal place of
10 business in Taipei, Taiwan, R.O.C.

11 3. Plaintiff ACI is a California corporation with its principal place of business
12 in Fremont, California. ACI is a wholly-owned subsidiary of ASUSTeK.

13 4. Defendant Technology Properties Ltd. ("TPL") is, on information and
14 belief, a California corporation with its principal place of business in Cupertino, California. On
15 information and belief, TPL is a co-owner of certain patents-in-suit.

16 5. Defendant Patriot Scientific Corporation ("Patriot") is, on information and
17 belief, incorporated under the laws of the State of Delaware with its principal place of business in
18 Carlsbad, California. On information and belief, Patriot is a co-owner of certain patents-in-suit.

19 6. MCM Portfolio LLC ("MCM") is, on information and belief, a Delaware
20 limited liability company with its principal place of business in Cupertino, California. On
21 information and belief, MCM is a co-owner of certain patents-in-suit and is owned or controlled
22 by TPL.

23 7. Defendant Alliacense Ltd. ("Alliacense") is, on information and belief, a
24 California corporation with its principal place of business in Cupertino, California. On
25 information and belief, Alliacense is responsible for negotiating possible licenses to the patents-
26 in-suit with third parties, on behalf of TPL.

27 **JURISDICTION AND VENUE**

28 8. The Plaintiffs file this complaint against TPL, Patriot, MCM and

1 Alliacense (collectively "Defendants") pursuant to the patent laws of the United States, Title 35
2 of the United States Code, with a specific remedy sought based upon the laws authorizing actions
3 for declaratory judgment in the federal courts of the United States, 28 U.S.C. §§ 2201 and 2202.

4 9. This Court has subject matter jurisdiction over this action, which arises
5 under the patent laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2201.

6 10. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and (c) and
7 1400(b) because, on information and belief, Defendants are corporations subject to personal
8 jurisdiction in this District and, on information and belief, TPL, MCM and Alliacense maintain
9 their principal places of business in this District.

10 INTRADISTRICT ASSIGNMENT

11 11. Pursuant to Local Rule 3-2(c), because this is an intellectual property case,
12 it may properly be assigned to any division in this judicial district.

13 EXISTENCE OF AN ACTUAL CONTROVERSY

14 12. There is an actual controversy within the jurisdiction of this Court under 28
15 U.S.C. §§ 2201 and 2202.

16 13. Beginning in or about late 2005, and continuing thereafter, Alliacense has
17 demanded that Plaintiffs enter into a royalty-bearing license for certain patents-in-suit. Alliacense
18 has claimed that products of Plaintiffs infringe one or more claims of certain patents-in-suit, and
19 has told Plaintiffs that if it does not take a license, it may be subject to substantial liabilities.

20 14. Alliacense has to date provided Plaintiffs with multiple claim charts
21 purporting to describe how many of Plaintiffs' products are allegedly covered by one or more
22 claims of the patents-in-suit. Alliacense has also stated that Plaintiffs' exposure is increasing with
23 each day that it does not obtain a license to certain patents-in-suit. Alliacense has also threatened
24 Plaintiffs' customers, who have turned to Plaintiffs for indemnification.

25 15. Plaintiffs have met with Alliacense several times to discuss a possible
26 license, with the most recent meeting having taken place on Oct. 29, 2007 at ASUSTeK's
27 headquarters in Taipei, R.O.C. During such meetings, Alliacense has consistently demanded that
28 Plaintiffs take a license or risk possible infringement liability. Although Plaintiffs and Alliacense